



Extended Warranty Law Clarification and GAPA Model Act

TESTIMONY IN SUPPORT OF HB 5385

The Guaranteed Asset Protection Alliance (GAPA) is comprised of companies that offer guaranteed asset protection waivers across the country. The Motor Vehicle Protection Product Association ("MVPPA") is a national trade association with member companies that include providers, retailers, administrators, and insurers of vehicle extended warranties and theft protection programs.

GAPA's mission is to preserve the viability of its industry and promote fair and equitable legislation and regulation of its members and their products so that its members may continue to offer meaningful options to consumers who choose to purchase these protections. To that end, GAPA developed a model act that has been the basis for laws in over 24 states including Alabama, Texas, Tennessee, Georgia, Washington, Michigan, and Nebraska. Additionally, GAPA has recently updated its model act to incorporate other types of motor vehicle financial protection products.

"Motor vehicle financial protection products" are optional agreements that protect a consumer's financial interest in their current or future motor vehicle. They include debt waivers, such as GAP waivers or excess wear and use waivers, and also include vehicle value protection agreements, like trade-in-credit agreements, diminished value agreements, and depreciation benefit agreements.

Connecticut House Bill 5385 places financial requirements on companies offering these motor vehicle financial protection products and requires certain written disclosures be provided to consumers purchasing these products. The bill also contains enforcement provisions and potential fines for violations by the appropriate state agency.

Passage of these improvements to current law will clarify that motor vehicle financial protection products are not insurance products and will put in place appropriate consumer protections including:

- 30 day “free look” period during which the consumer may return the product without penalty, fees, or costs.
- A requirement that the product be optional for the borrower and that the terms of the financing and the terms of the purchase not be conditioned upon purchase of the product.
- Cancellation and refund provisions.
- Definitions of key terms.
- Various other disclosure requirements.
- Financial solvency provisions.

We support Connecticut House Bill 5385 as it creates a uniform set of laws applicable to this product and contains important consumer protections. Similar laws have been passed in 24 other states including Maine, New Hampshire, Rhode Island, New Jersey, and North Carolina.

MVPPA’s primary goal is to establish a uniform, balanced regulatory landscape that minimizes confusion or dispute about the regulatory status of these products. MVPPA’s member companies offer over 80% of the protection products available in the marketplace today and include Ally Insurance, AmTrust Financial Services, Assurant Solutions, Toyota Motor Insurance Services, and CNA National Warranty Company.

The legislation amends the definition of “extended warranty” to expressly authorize a number of products to be offered as extended warranties—tire and wheel repair or replacement, windshield repair or replacement, paintless dent repair, and lost, stolen, or inoperable key or key-fob replacement.

We believe that these coverages are offered in Connecticut today as extended warranties that are filed with the DOI, and that this legislation crystalizes in statute the current regulatory treatment of these products.

House Bill 5385 also clarifies that the limited warranties that accompany the sale of theft protection programs are not subject to regulation as insurance or a service contract. It is important to note that C.G.S.A §14-99h requires vehicle dealers to offer VIN etching, a form of theft protection program, to all vehicle purchasers, but does not speak to the warranties associated with these important products which reimburse the vehicle purchasers in the event of theft.

In addition to these three main purposes, the legislation also:

- Provides an express right of the consumer to cancel the extended warranty at any time during the term and receive either a full or prorated refund, depending on the circumstances of such cancellation;
- Creates important consumer-focused disclosures that must be included in the extended warranty, such as the existence of reimbursement insurance policy backing the extended warranty and how to make a claim under such policy; and
- Establishes recordkeeping requirements and prohibited acts for extended warranty providers

GAPA and MVPPA support Connecticut House Bill 5385 and hope that you will join us in supporting it as well.

Proposed Extended Warranties in Connecticut Legislation 2021

Revise C.G.S.A. §42-260 as follows:

C.G.S.A. § 42-260. Extended warranties. Definitions. Warranty requirements. Reimbursement insurance policy. Reserves. Surplus and ratio requirement. Requirement re filing of financial statement. Regulations. Exceptions

(a) As used in this section:

(1) “Extended warranty” means a contract or agreement to either perform or provide indemnification for the repair, replacement or maintenance of a product because of operational or structural failure of such product due to a defect in materials, skill or workmanship or normal wear and tear given for consideration over and above the lease or purchase price of a product, with or without additional provisions for incidental payment of indemnity under limited circumstances, including, but not limited to, towing, rental and emergency road service and road hazard protection. Extended warranties may provide for the repair, replacement, or maintenance of a consumer product for damage resulting from power surges or interruption. “Extended warranty” does not include portable electronics insurance, as defined in section 38a-397, or an agreement that promises routine, scheduled maintenance. “Extended warranty” also includes a contract or agreement to either perform or provide indemnification for any one or more of the following services:

(A) the repair or replacement of tires and/or wheels on a motor vehicle damaged as a result of coming into contact with road hazards;

(B) the removal of dents, dings, or creases on a motor vehicle that can be repaired using the process of paintless dent removal without affecting the existing paint finish and without replacing vehicle body panels, sanding, bonding, or painting;

(C) the repair of chips or cracks in or the replacement of motor vehicle windshields as a result of damage caused by road hazards, such as potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or composite scraps;

(D) the replacement of a motor vehicle key or key-fob in the event that the key or key-fob becomes inoperable or is lost or stolen; or

(E) in conjunction with a motor vehicle leased for personal use, the repair, replacement or maintenance of property, or indemnification for repair, replacement or maintenance, due to excess wear and use, damage for items such as tires, paint cracks or chips, interior stains, rips or scratches, exterior dents or scratches, windshield cracks or chips, missing interior or exterior parts or excess mileage that result in a lease-end charge, provided any such payment shall not exceed the purchase price of the vehicle;

(2) “Extended warranty provider” means a person who issues, makes, provides or offers to provide an extended warranty to a buyer and who is contractually obligated to provide service under such extended warranty, excluding a retail seller of an extended warranty if such seller: (A) Is the manufacturer of the product covered under the extended warranty, or a subsidiary or affiliate of the manufacturer; (B) sells or offers an extended warranty for a product obligating the manufacturer, a subsidiary or affiliate of the manufacturer, a distributor or an importer to provide the service or indemnification arising under the extended warranty; or (C) performs at least ninety per cent of the repair service provided to buyers pursuant to extended warranties purchased from such seller.

(m)(1) Nothing in this section shall apply to “theft protection programs” or their accompanying warranties and such warranties shall also not be considered insurance. Such warranties are subject only to regulation under the federal Magnuson-Moss Warranty Act, 15 U.S.C. 2301 et seq.

(2) For purposes of this section, a “theft protection program” means a device, or system that (i) is installed on or applied to a motor vehicle, (ii) is designed to prevent loss or damage to a motor vehicle from theft, and (iii) includes a theft protection program warranty. The term shall include, but not be limited to, alarm systems, body part marking products, steering locks, window etch products, pedal and ignition locks, fuel and ignition kill switches, and electronic, radio, and satellite tracking devices. Theft protection program does not include fuel additives, oil additives, or other chemical products applied to the engine, transmission, or fuel system, or interior or exterior surfaces of a motor vehicle.

(3) For purposes of this section, the term “theft protection program warranty” means a written agreement by a warrantor that provides if a theft protection program fails to prevent loss or damage to a motor vehicle from theft, that the warrantor will pay to or on behalf of the warranty holder specified incidental costs as a result of the failure of the theft protection program to perform pursuant to the terms of the theft protection program warranty.

(4) For purposes of this section, the term “incidental costs” means expenses specified in a theft protection program warranty that are incurred by the warranty holder due to the failure of a theft protection program to perform as provided in the contract. Incidental costs may include, without limitation, insurance policy deductibles, rental vehicle charges, the difference between the actual value of the stolen vehicle at the time of theft and the cost of a replacement vehicle, sales taxes, registration fees, transaction fees, and mechanical inspection fees. Incidental costs may be reimbursed in either a fixed amount specified in the theft protection program warranty or by use of a formula itemizing specific incidental costs incurred by the warranty holder.

Revise C.G.S.A. § 14-99h as follows:

§ 14-99h. Etching of vehicle identification numbers. Marking of component parts. Penalty. Regulations

...

(g) For purposes of this section, a unique identifying code made up of numbers, letters, or both may be used in lieu of the vehicle identification number if done so in conjunction with a theft protection program as defined in section 42-260(i).

Motor Vehicle Financial Protection Products

Section 1. Section _____, revised code (“Section”) is added to read:

Chapter ____ - Financial Institutions

Section ____. **Motor Vehicle Financial Protection Products**

I. Scope

The purpose of this Section is to provide a framework within which Motor Vehicle Financial Protection Products are defined and may be offered within this state.

II. Definitions Applicable to Motor Vehicle Financial Protection Products

- (A) "Commercial" means a transaction wherein the Motor Vehicle will primarily be used for business purposes rather than personal.
- (B) "Consumer" means an individual purchaser of a Motor Vehicle or borrower under a Finance Agreement, and includes a Borrower or Contract Holder as herein defined as applicable.
- (C) "Finance Agreement" means a loan, retail installment sales contract or lease for the purchase, refinancing, or lease of a Motor Vehicle.
- (D) "Free Look Period" means the period of time from the effective date of the Motor Vehicle Financial Protection Product until the date the Motor Vehicle Financial Protection Product may be canceled without penalty, fees or costs. This period of time shall not be shorter than 30 days.
- (E) "Insurer" means an insurance company licensed, registered, or otherwise authorized to issue contractual liability insurance under the insurance laws of this state.
- (F) "Motor Vehicle" means self-propelled or towed vehicles designed for personal or Commercial use, including but not limited to automobiles, trucks, motorcycles, recreational vehicles, all-terrain vehicles, snowmobiles, campers, boats, personal watercraft, and related trailers.
- (G) "Motor Vehicle Financial Protection Products" are agreements defined herein that protect a Consumer's financial interest in their current or future Motor Vehicle and include but are not limited to Debt Waivers and Vehicle Value Protection Agreements.
- (H) "Person" includes an individual, company, association, organization, partnership, business trust, corporation, and every form of legal entity.

III. Requirements for Offering Motor Vehicle Financial Protection Products

- (A) Motor Vehicle Financial Protection Products may be offered, sold or given to Consumers in this state in compliance with this Act.
- (B) Notwithstanding any other provision of law, any amount charged or financed for a Motor Vehicle Financial Protection Product is an authorized charge that must be separately stated and is not to be considered a finance charge or interest.
- (C) Neither the extension of credit, the terms of credit, nor the terms of the related Motor Vehicle sale or lease may be conditioned upon the Consumer's payment for or financing of any charge for a Motor Vehicle Financial Protection Product. However, Motor Vehicle Financial Protection Products may be discounted or given at no charge in connection with the purchase of other non-credit related goods or services.

IV. Debt Waivers

- (A) Definitions applicable to Debt Waivers:
 - (1) "Administrator" means a Person, other than an Insurer or Creditor that performs administrative or operational functions pursuant to Debt Waiver programs.

(2) "Borrower" means a debtor, retail buyer or lessee, under a Finance Agreement.

(3) "Creditor" means:

- (i) the lender in a loan or credit transaction;
- (ii) the lessor in a lease transaction;
- (iii) any retail seller of Motor Vehicles;
- (iv) the seller in Commercial retail installment transactions; or
- (v) the assignees of any of the foregoing to whom the credit obligation is payable.

(4) "Debt Waiver" includes but is not limited to:

- (i) "Guaranteed Asset Protection Waiver" or "GAP Waiver" means a contractual agreement wherein a Creditor agrees, with or without a separate charge, to cancel or waive all or part of amounts due on a Borrower's Finance Agreement in the event of a total physical damage loss or unrecovered theft of the Motor Vehicle, which agreement must be part of, or a separate addendum to, the Finance Agreement. A GAP Waiver may also provide, with or without a separate charge, a benefit that waives an amount, or provides a Borrower with a credit, towards the purchase of a replacement Motor Vehicle.
- (ii) "Excess Wear and Use Waiver" means a contractual agreement wherein a Creditor agrees, with or without a separate charge, to cancel or waive all or part of amounts that may become due under a Borrower's lease agreement as a result of excessive wear and use of a Motor Vehicle, which agreement must be part of, or a separate addendum to, the lease agreement. Excess Wear and Use Waivers may also cancel or waive amounts due for excess mileage.
- (iii) Other products as approved by [insert regulator's title here].

(B) Requirements for Offering Debt Waivers

- (1) A retail seller must insure its Debt Waiver obligations under a contractual liability or other insurance policy issued by an Insurer. A Creditor, other than a retail seller, may insure its Debt Waiver obligations under a contractual liability policy or other such policy issued by an Insurer. Any such insurance policy may be directly obtained by a Creditor, or retail seller, or may be procured by an Administrator to cover a Creditor's or retail seller's obligations. However, retail sellers that are lessors on Motor Vehicles are not required to insure obligations related to Debt Waivers on such leased Motor Vehicles.
- (2) The Debt Waiver remains a part of the Finance Agreement upon the assignment, sale or transfer of such Finance Agreement by the Creditor.
- (3) Any Creditor that offers a Debt Waiver must report the sale of, and forward funds due to, the designated party or parties.
- (4) Funds received or held by a Creditor or Administrator and belonging to an Insurer, Creditor or Administrator must be held by such Creditor or Administrator in a fiduciary capacity.

(C) Contractual Liability or Other Insurance Policies

- (1) Contractual liability or other insurance policies insuring Debt Waivers must state the obligation of the Insurer to reimburse or pay to the Creditor any sums the Creditor is legally obligated to waive under a Debt Waiver.
- (2) Coverage under a contractual liability or other insurance policy insuring a Debt Waiver must also cover any subsequent assignee upon the assignment, sale or transfer of the Finance Agreement.
- (3) Coverage under a contractual liability or other insurance policy insuring a Debt Waiver must remain in effect unless cancelled or terminated in compliance with applicable insurance laws of this state.
- (4) The cancellation or termination of a contractual liability or other insurance policy must not reduce the Insurer's responsibility for Debt Waivers issued by the Creditor prior to the date of cancellation or termination and for which premium has been received by the Insurer.

(D) Disclosures

Debt Waivers must disclose in writing and in clear, understandable language that is easy to read, the following:

- (1) The name and address of the initial Creditor and the Borrower at the time of sale, and the identity of any Administrator if different from the Creditor.
- (2) The purchase price, if any, and the terms of the Debt Waiver, including without limitation, the requirements for protection, conditions, or exclusions associated with the Debt Waiver.
- (3) That the Borrower may cancel the Debt Waiver within a Free Look Period as specified in the Debt Waiver, and will be entitled to a full refund of the purchase price paid by the Borrower, if any, so long as no benefits have been provided.
- (4) The procedure the Borrower must follow, if any, to obtain Debt Waiver benefits under the terms and conditions of the Debt Waiver, including, if applicable, a telephone number or website and address where the Borrower may apply for Debt Waiver benefits.
- (5) Whether or not the Debt Waiver is cancellable after the Free Look Period and the conditions under which it may be cancelled or terminated, including the procedures for requesting any refund of amounts paid.
- (6) That in order to receive any refund due in the event of a Borrower's cancellation of the Debt Waiver, the Borrower, in accordance with the terms of the Debt Waiver, must provide a written request to cancel to the Creditor, Administrator or other such party. If the cancellation of a Debt Waiver is due to the early termination of the Finance Agreement and no benefit has been or will be provided, then the Borrower, in accordance with the terms of the Debt Waiver, must provide a written request to cancel to the Creditor or Administrator within ninety days of the occurrence of the event terminating the Finance Agreement.
- (7) The methodology for calculating any refund of the unearned purchase price of the Debt Waiver, if any, that will be due in the event of cancellation of the Debt Waiver or early termination of the Finance Agreement.
- (8) That neither the extension of credit, the terms of the credit, nor the terms of the related Motor Vehicle sale or lease, may be conditioned upon the Borrower's purchase of a Debt Waiver.

(E) Cancellation

- (1) Debt Waiver agreements may be cancellable or non-cancellable after the Free Look Period. Debt Waivers must provide that if a Borrower cancels a Debt Waiver within the Free Look Period, the Borrower will be entitled to a full refund of the amount the Borrower paid, if any, so long as no benefits have been provided.
- (2) In the event of a Borrower's cancellation of the Debt Waiver, or upon the early termination of the Finance Agreement, after the Debt Waiver has been in effect beyond the Free Look Period, the Borrower may be entitled to a refund of the amount the Borrower paid of the unearned portion of the purchase price, if any, less a cancellation fee up to \$75, if no benefit has been or will be provided. In order to receive any refund due in the event of a Borrower's cancellation of the Debt Waiver, the Borrower must provide a written request to cancel, in accordance with the terms of the Debt Waiver, to the Creditor or Administrator. If the cancellation is due to the early termination of the Finance Agreement, then the Borrower, in accordance with the terms of the Debt Waiver, must provide a written request to cancel to the Creditor or Administrator within ninety days of the occurrence of the event terminating the Finance Agreement.
- (3) If the cancellation of a Debt Waiver occurs as a result of a default under the Finance Agreement or the repossession of the Motor Vehicle associated with the Finance Agreement, or any other termination of the Finance Agreement, any refund due may be paid directly to the Creditor or Administrator and applied as a reduction of the amount owed under the Finance Agreement, unless the Borrower can show that the Finance Agreement has been paid in full.

(F) Exempt Transactions

- (1) Debt Waivers offered by state or federal banks or credit unions in compliance with the applicable state or federal law are exempt from this Act.
- (2) Sections (IV)(B) and (VI) are not applicable to Debt Waivers offered in connection with Commercial transactions.

V. Vehicle Value Protection Agreements

(A) Definitions applicable to Vehicle Value Protection Agreements:

- (1) "Administrator" means the Person who may be responsible for the administrative or operational function of Vehicle Value Protection Agreements including but not limited to the adjudication of claims or benefit requests by Contract Holders.
- (2) "Contract Holder" means a Person who is the purchaser or holder of a Vehicle Value Protection Agreement.
- (3) "Provider" means a Person that is obligated to provide a benefit under a Vehicle Value Protection Agreement. A Provider may perform as an Administrator or retain the services of a third-party Administrator.
- (4) "Vehicle Value Protection Agreement" includes a contractual agreement that provides a benefit towards either the reduction of some or all of the Contract Holder's current Finance Agreement deficiency balance, or towards the purchase or lease of a replacement Motor Vehicle or Motor Vehicle services, upon the occurrence of an adverse event to the Motor Vehicle including but not limited to loss, theft, damage, obsolescence, diminished value or depreciation. These agreements do not

include debt waivers. These agreements may include agreements such as, but not limited to, trade-in-credit agreements, diminished value agreements, depreciation benefit agreements, or other similarly named agreements.

(B) Requirements for Offering Vehicle Value Protection Agreements:

- (1) A Provider may, but is not required to, utilize an Administrator or other designee to be responsible for any and all of the administration of Vehicle Value Protection Agreements in compliance with this Act.
- (2) Vehicle Value Protection Agreements shall not be sold unless the Contract Holder has been or will be provided access to a copy of that Vehicle Value Protection Agreement.
- (3) In order to assure the faithful performance of the Provider's obligations to its Contract Holders, each Provider shall be responsible for complying with the requirements of one of the following three subdivisions:
 - (i.) Insure all of its Vehicle Value Protection Agreements under a reimbursement insurance policy issued by an Insurer licensed, registered, or otherwise authorized to do business in this state either:
 - (a) at the time the policy is filed with the commissioner, and continuously thereafter, (i) maintain surplus as to policyholders and paid-in capital of at least fifteen million dollars (\$15,000,000) and (ii) annually file copies of the Insurer's financial statements, its NAIC Annual Statement, and the actuarial certification required by and filed in the Insurer's state of domicile; or
 - (b) at the time the policy is filed with the commissioner, and continuously thereafter, (i) maintain surplus as to policyholders and paid-in capital of less than fifteen million dollars (\$15,000,000) but at least equal to ten million dollars (\$10,000,000), (ii) demonstrate to the satisfaction of the commissioner that the company maintains a ratio of net written premiums, wherever written, to surplus as to policyholders and paid-in capital of not greater than 3 to 1, and (iii) annually files copies of the Insurer's audited financial statements, its NAIC Annual Statement, and the actuarial certification required by and filed in the Insurer's state of domicile; or
 - (ii.)
 - (a) Maintain a funded reserve account for its obligations under its contracts issued and outstanding in this state. The reserves shall not be less than forty percent (40%) of gross consideration received, less claims paid, on the sale of the Vehicle Value Protection Agreement for all in-force contracts. The reserve account shall be subject to examination and review by the [commissioner]; and
 - (b) Place in trust with the [commissioner] a financial security deposit, having a value of not less than five percent (5%) of the gross consideration received, less claims paid, on the sale of the Vehicle Value Protection Agreements for all Vehicle Value Protection Agreements issued and in force, but not less than \$25,000.00, consisting of one of the following:
 - i. A surety bond issued by an authorized surety;
 - ii. Securities of the type eligible for deposit by authorized Insurers in this state;
 - iii. Cash;

- iv. A letter of credit issued by a qualified financial institution; or
- v. Another form of security prescribed by regulations issued by the [Commissioner]; or

(iii.)

- (a) Maintain, or together with its parent company maintain, a net worth or stockholders' equity of \$100 million; and
 - (b) Upon request, provide the [Commissioner] with a copy of the Provider's or the Provider's parent company's most recent Form 10-K or Form 20-F filed with the Securities and Exchange Commission (SEC) within the last calendar year, or if the company does not file with the SEC, a copy of the company's audited financial statements, which shows a net worth of the Provider or its parent company of at least \$100 million. If the Provider's parent company's Form 10-K, Form 20-F, or financial statements are filed to meet the Provider's financial security requirement, then the parent company shall agree to guarantee the obligations of the Provider relating to Vehicle Value Protection Agreements sold by the Provider in this state.
- (4) Except for the requirements specified in Section B(3) above, no other financial security requirements shall be required for Vehicle Value Protection Agreement Providers.

(C) Disclosures

Vehicle Value Protection Agreements must disclose in writing and in clear, understandable language that is easy to read, the following:

- (1) The name and address of the Provider, Contract Holder, and Administrator, if any.
- (2) The terms of the Vehicle Value Protection Agreement, including without limitation, the purchase price to be paid by the Contract Holder if any, the requirements for eligibility, conditions of coverage, or exclusions.
- (3) That the Vehicle Value Protection Agreement may be cancelled by the Contract Holder within a Free Look Period as specified in the Vehicle Value Protection Agreement, and that in such event the Contract Holder will be entitled to a full refund of the purchase price paid by the Contract Holder, if any, so long as no benefits have been provided.
- (4) The procedure the Contract Holder must follow, if any, to obtain a benefit under the terms and conditions of the Vehicle Value Protection Agreement, including, if applicable, a telephone number or website and address where the Contract Holder may apply for a benefit.
- (5) Whether or not the Vehicle Value Protection Agreement is cancellable after the Free Look Period and the conditions under which it may be cancelled including the procedures for requesting any refund of the unearned purchase price paid by the Contract Holder.
- (6) In the event of cancellation, the methodology for calculating any refund of the unearned purchase price of the Vehicle Value Protection Agreement due.

(7) That neither the extension of credit, the terms of the credit, nor the terms of the related Motor Vehicle sale or lease, may be conditioned upon the purchase of the Vehicle Value Protection Agreement.

(8) Vehicle Value Protection Agreements shall state the terms, restrictions or conditions governing cancellation of the Vehicle Value Protection Agreement prior to the termination or expiration date of the Vehicle Value Protection Agreement by either the Provider or the Contract Holder. The Provider of the Vehicle Value Protection Agreement shall mail a written notice to the Contract Holder at the last known address of the Contract Holder contained in the records of the Provider at least five (5) days prior to cancellation by the Provider. Prior notice is not required if the reason for cancellation is nonpayment of the Provider fee, a material misrepresentation by the Contract Holder to the Provider or Administrator, or a substantial breach of duties by the Contract Holder relating to the covered product or its use. The notice shall state the effective date of the cancellation and the reason for the cancellation. If a Vehicle Value Protection Agreement is cancelled by the Provider for a reason other than nonpayment of the Provider fee, the Provider shall refund to the Contract Holder 100% of the unearned pro rata Provider fee paid by the Contract Holder, if any. If coverage under the Vehicle Value Protection Agreement continues after a claim, then any refund may deduct claims paid. A reasonable administrative fee may be charged by the Provider up to \$75.

(D) Commercial Transaction Exempt

(1) Sections (V)(C) and (VI) are not applicable to Vehicle Value Protection Agreements offered in connection with a Commercial transaction.

VI. Enforcement

The [Commissioner] may take action which is necessary or appropriate to enforce the provisions of this Section and to protect Motor Vehicle Financial Protection Product Consumers in this state. After proper notice and opportunity for hearing, the [Commissioner] may:

(A) Order the Creditor, Provider, Administrator or any other Person not in compliance with this Section to cease and desist from product-related operations which are in violation of this Section.

(B) Impose a penalty of not more than five hundred dollars (\$500.00) per violation and no more than ten thousand dollars (\$10,000) in the aggregate for all violations of similar nature. For purposes of this Section, violations must be of a similar nature if the violation consists of the same or similar course of conduct, action or practice, irrespective of the number of times the action, conduct or practice which is determined to be a violation of this Section occurred.

VII. Intent

The legislature finds that Motor Vehicle Financial Protection Products are not insurance. All Motor Vehicle Financial Protection Products issued prior to and after the date of enactment of this Section shall not be construed as insurance.

VIII. Severability Provision

If any provision of this Section, or the application of the provision to any Person or circumstances, is held invalid, the remainder of the Section, and the application of the provision to Persons or circumstances other than those as to which it is held invalid, is not to be affected.

IX. Effective Date

This Section becomes effective immediately upon its passage and approval by the Governor, or upon it otherwise becoming a law and applies to all Motor Vehicle Financial Protection Products which become effective on or after 180 days from the effective date of the section